

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

KIRK D. BLUE,

Plaintiff,

vs.

WESLEY LANE WOODARD and
CALVIN L. JONES,

Defendants.

)
)
)
)
)
)
)
)

NO. CIV-05-970-T

ORDER

Plaintiff, a state prisoner appearing *pro se*, brought this action pursuant to 42 U.S.C. §1983. In accordance with 28 U.S.C. §636(b)(1)(B), the matter was referred to United States Magistrate Judge Robert E. Bacharach for initial proceedings.

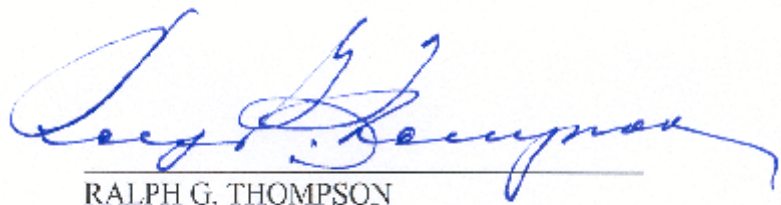
On August 31, 2005 the magistrate judge filed a Report and Recommendation [Doc. No. 7] in which he recommended that the complaint be dismissed upon filing in accordance with 28 U.S.C. § 1915(e)(2)(B) and 28 U.S.C. § 1915A(b) because the complaint fails to state any claim upon which relief can be granted.

The Report and Recommendation also advised plaintiff of his right to object to same, set a deadline of September 21, 2005 for filing objections, and cautioned plaintiff that a failure to timely file objections would result in a waiver of his right to appellate review of the matters determined in the Report and Recommendation. That deadline has expired, and plaintiff has not filed an objection. Although the court file reflects that court mail sent to plaintiff was returned as undeliverable, that mail was sent to the last

address provided to the court by plaintiff. Pursuant to LCvR 5.1, plaintiff is responsible for notifying the court of any change in his mailing address. Failure to notify the court of his current address results in the orders being deemed delivered upon mailing to his last known address. *Id.*

Accordingly, the Report and Recommendation [Doc. No. 7] is adopted as though fully set forth herein. This action is dismissed without prejudice to the filing of a new action. Furthermore, the dismissal is counted as a “prior occasion” for purposes of the Prison Litigation Reform Act, 28 U.S.C. § 1915(g).

IT IS SO ORDERED this 29th day of September, 2005.



RALPH G. THOMPSON
UNITED STATES DISTRICT JUDGE